

Testimony of Congressman Christopher Shays

Connecticut, 4th Congressional District

Before the

Committee on House Administration

Hearing on the Regulation of 527 Organizations

April 20, 2005

Chairman Ney, Ranking Member Millender-McDonald, thank you for allowing me the opportunity to testify in support of H.R. 513, the 527 Reform Act. I also appreciate your holding this hearing on an issue that is crucial to the integrity of our elections.

On December 10, 2003, the Supreme Court upheld nearly all elements of the Bipartisan Campaign Reform Act (BCRA), agreeing with Congress that the law complies with the First Amendment.

We wrote this law to help end a campaign finance system in which corporate treasury and union dues money was drowning out the voice of individual Americans by banning unlimited -- and often undisclosed -- soft money contributions and to close the sham "issue ad" loophole.

I am particularly pleased to report on the success of the BCRA. The national parties raised \$1.2 billion in hard money in 2004, more than they raised in combined hard and soft money in 2000. The parties were able to recruit more donors than ever before and increased the cash they raised overall. A few large donors were replaced by thousands of smaller donors. I think it's fair to say that BCRA played an important role in this upsurge in participation.

Hearing of BCRA's success may be more convincing coming from those who initially questioned the law, so I would note an opinion from David Broder's February 3 column, in which he stated, "As one who has been skeptical of the claimed virtues of the McCain-Feingold campaign finance law, I am happy to concede that it has, in fact, passed its first test in the 2004 campaign with flying colors."

As Supreme Court Justice Sandra Day O'Connor predicted in upholding BCRA, money did, in fact, find a way back into the political system, in the form of 527 organizations. According to a report by the Committee for Economic Development, 97 527s raised \$323.4 million. And according to the Campaign Finance Institute, \$142 million of this funding came from just 25 individual donors. Among the 527s were: The Media Fund, Americans Coming Together, Swift Boat Veterans for Truth, and Progress for America.

Section 527 of the Internal Revenue Code provides tax-exempt status for political groups such as candidate campaigns, party committees, political action committees (PACs), and other political committees. Under current law, section 527 organizations need only disclose their receipts and expenditures to the Internal Revenue Service, not the FEC, even though many spend huge sums of money to influence federal races.

In other words, 527 groups by definition are in the business of influencing campaigns and have voluntarily sought the tax advantages conferred on such political groups. These groups cannot be allowed to shirk their responsibilities to comply with federal campaign finance laws when they are spending money to influence federal elections.

Some claimed the 527 organizations proved that BCRA didn't work. This is not so. The use of soft money by 527 groups to pay for ads attacking and promoting the 2004 presidential candidates was not legal. This is a requirement of longstanding federal campaign finance laws that go back to 1974. That law, as construed by the Supreme Court in *Buckley v. Valeo*, requires any group whose "major purpose" is to influence federal elections, and who spends \$1,000 or more to do so, must register with the Federal Election Commission as a "political committee," and be subject to the contribution limits, source prohibitions and reporting requirements that apply to all political committees.

While everyone else participating in federal elections was spending money subject to federal contribution limits, the 527 groups were operating outside the law and collecting unlimited soft money to influence the federal races.

Your committee is hearing testimony on two very different solutions to this problem. Congressman Meehan and I, as well as our colleagues Senators McCain and Feingold, propose requiring 527 groups to register as political committees with the FEC and comply with federal campaign finance laws, unless they raise and spend money exclusively in connection with non-Federal candidate elections, or state or local ballot initiatives. I believe this is the proper course of action, and would make our successful law even more so. To ensure free and fair elections, it is essential that federal election law is fully implemented and fairly enforced. It is imperative that the FEC execute the will of Congress with respect to all campaign law, but they have consistently failed to do so.

This proposal would not shut down 527s, it would simply force them to live by the same rules by which all other political groups, such as our own campaign committees, are forced to live.

I think it is crucial to have the support of people like Senator Lott, who opposed BCRA but is a cosponsor of the Senate companion to H.R. 513. In our press conference to announce the bill's introduction, Senator Lott rightly referred to 527 money as "sewer money" and promised action from the Senate Rules Committee, which has already held one hearing on this issue.

On the other hand, Mr. Pence and Mr. Wynn propose rolling back several features of BCRA. Instead of regulating 527s, they would weaken the regulations for national parties to allow them to spend more. this is the wrong approach to take. I will not support any efforts to undermine or weaken BCRA, and any efforts to do so may end our ability to deal with this unregulated soft money loophole. I

also will not support any efforts to turn this bill into a Christmas tree of legislative proposals designed to alter the current system.

The FEC has for 30 years improperly interpreted FECA to allow 527 organizations to spend millions of dollars to influence federal elections without complying with federal campaign finance laws. It is clear Congress must correct this misinterpretation and close this flagrant loophole.

I would also like to note that due to concerns expressed by state election officials, we are considering modifying the bill to ensure 527s that do not impact federal elections are not affected by this legislation. As modified, the bill will *not* require a 527 group to register as a federal political committee if the group does not make public communications that promote or attack a federal candidate, and if the group meets certain standards to ensure its voter drive activities are only for state and local candidates.

In addition to Mr. Meehan, H.R. 513 is cosponsored by Congressmen Bass, Becerra, Boyd, Castle, Frank, Lewis, McNulty, and Simmons. I appreciate all of their support.

Once again, Mr. Chairman, I appreciate your holding this hearing today. I urge your support, and the Congress' support, of H.R. 513 and would be happy to take any questions.